IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1502 OF 1997

Shri Raju Vasant Nehatrao. ... Petitioner

V/s

The State of Maharashtra & Ors. ... Respondents.

Shri R.K.Mendadkar, Advocate for petitioner.

Shri C.R.Sonawane, AGP for respondents No.1 to 3.

CORAM: A.P.SHAH &

S.U.KAMDAR,JJ

DATE : 8TH SEPTEMBER, 2004.

P.C. :-

1. By the present petition, the petitioner is challenging an order passed by the Caste Scrutiny and Verification Committee dated 26th April, 1996. The petitioner is claiming to be belonging to Mahadeo Koli Schedule Tribe. On 26th November, 1994, the petitioner was selected by the Respondent No.4 to the

Post of Art ‘C’, category as Tyre Fitter. The respondent No.4 is State Transport of Pune Division. The said appointment was made against the reserved category. In 1995-96, the petitioner completed a period of 180 days and was given time scale pay. On 5th October, 1995, the petitioner applied for caste verification and attended office of the second respondent for interview. It is the case of the petitioner that there was no hearing took place on that date and they were informed that they will be called again for interview. However, instead of giving next date of hearing, on 10th February, 1997, an order came to be passed invalidating caste claim of the petitioner and the caste certificate was cancelled. Simultaneously, service of the petitioner has been terminated. In the aforesaid circumstances, petitioner has filed the present petition. The second respondent committee has considered various documents and has come to the conclusion that documents though indicates the caste as Mahadeo Koli they are pertaining to the period 1969 to 1984 i.e. after issuance of first Presidential Order specifying Schedule Tribes and the same cannot be accepted and therefore,the petitioner’s claim is liable to be rejected.

2. The learned counsel appearing for the petitioner has produced before us a Caste Validity Certificate issued by the Caste Scrutiny Committee dated 3rd July, 2004 in favour of the brother of the petitioner Suresh Vasant Nhehatrao certifying that the said person belongs to Mahadeo Koli Schedule Tribe. It is the contention of the petitioner that there cannot be different caste of the petitioner and his brother. It is further contended by the petitioner that in the present case, neither the scrutiny committee has carried out vigilance enquiry nor given the personal hearing to the petitioner as well as considered the documents in toto. It is the case of the petitioner that after conducting vigilance enquiry, case of the brother of the petitioner has been considered and the petitioner's brother has been given caste validity certificate. It is therefore contended by the petitioner that he is also entitled to caste certificate.

3. In the light of the aforesaid contention advanced before us, we are of the opinion that order passed by the caste Scrutiny Committee invalidating caste claim of the petitioner cannot be sustained for

two reasons. Firstly the said order is passed without giving personal hearing to the petitioner and without following principles of natural justice. Secondly because the brother of the petitioner has been issued a caste validity certificate by taking consideration the very same documents and after conducting vigilance enquiry.

4. In the light of the fact that the brother of the petitioner has already been issued the Caste validity certificate by the very same Caste Scrutiny Committee, no purpose would be served in remanding the matter back to the second respondent herein. The caste of the petitioner and his brother cannot be different. In view thereof, we allow the present petition and quash and set aside the order dated 26th April, 1996 passed by the second respondent and direct the second respondent to issue the petitioner validation certificate forthwith.

5. The petitioner’s services were terminated by the respondent No.4 because of invalidation of caste validity certificate by the impugned order herein. In view of the fact that the said order is quashed and set aside and the Caste Scrutiny Committee is directed

to issue necessary caste validity certificate, the petitioner would be entitled to the same job. However, since long period has expired i.e. almost 7 years and the petitioner has not worked in the said organisation, the petitioner will not be entitled to any backwages. The respondent No.5 will accommodate the petitioner to the same or equivalent job as soon as the vacancy arises in the 4th respondent organisation on his production of caste validity certificate. We dispose of the petition in the terms of the aforesaid direction. However, there will be no order as to costs.

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